

U.S. Serial No.: 10/565,729
In Response to the Office Communication of February 20, 2008
Atty. Docket No.: 124316-00102

REMARKS

I. INTRODUCTION

Favorable reconsideration of this application, in light of the present amendments and the following discussion, is respectfully requested.

II. STATUS OF THE CLAIMS

Claims 1-5 are presently pending, and of those claims, Claims 1 and 5 are independent claims. By the present amendments, Claims 1, 4, and 5 have been amended. It is respectfully submitted that no new matter is added by this amendment, as support for the amendments may be found, at least, in the Specification.

III. SUMMARY OF THE OFFICE ACTION

In the February 20, 2008 Office Action, Claims 1-5 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite; Claims 1-2 are rejected under 35 U.S.C. § 103(a) as being unpatentable over by U.S. Patent Application Pub. No. 2002/0179647 by *Hall et al.*; Claims 3-4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Pub. No. 2002/0179647 by *Hall et al.* in view of U.S. Patent No. 5,803,333 to *Fawcett*; and Claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,803,333 to *Fawcett* in view of U.S. Patent No. 5,085,349 to *Fawcett* and in further view of U.S. Patent Application Pub. No. 2002/0179647 by *Hall et al.*

IV. THE REJECTION OF THE CLAIMS

A. The Rejection of Claims 1-5 under 35 U.S.C. § 112

The Office Action rejected Claims 1-5 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. In particular, the Office Action found insufficient antecedent basis for “the cover interior” in Claim 1, and the Office Action stated that “a cover to receive a pouch and a fluid container” in Claim 5 renders the claim indefinite.

In response, Claim 1 has been amended to recite “a cover interior” instead of “the cover interior.” Also, Claim 5 has been amended to recite “a fluid container made of a flexible material; a cover with a pouch to receive the fluid container...” The amendments made to overcome the § 112 rejection are not intended to be, nor believed to be, narrowing amendments.

Applicant respectfully submits that Claims 1-5, as amended, are definite, and thus, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph.

B. The Rejection of Claims 1-2 under 35 U.S.C. § 103

The Office Action rejected claims 1-2 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Application Pub. No. 2002/0179647 by *Hall et al.* (hereafter “*Hall*”). The Office Action states that *Hall* discloses a portable fluid carrier, as recited in claim 1.

Applicant respectfully submits that *Hall* does not render amended Claim 1 obvious because *Hall* does not teach a portable flexible carrier that includes “an outer separable cover with a selectively sealable pouch to receive the flexible fluid container...; a sleeve provided at an open end of the selectively sealable pouch...” as recited in Claim 1.

Applicant respectfully submits that *Hall* does not teach or suggest “a sleeve provided at an open end of the selectively sealable pouch.” *Hall* discloses a hydration system 100 that has a bladder 110 which includes an inner bladder formed from heat sealing layers 520a and 520b together and an outer protective bladder formed from welding layers 510a and 510b together, as described in paragraph [0023] and shown in FIG. 5. The outer protective bladder has an opening, and the inner bladder has a corresponding opening that coincides with the opening of the outer bladder, as shown in Fig. 4. A spout 120 is placed around the opening of the outer bladder and the corresponding opening of the inner bladder. The spout 120 has an outer section 121 that is placed on the outside of the outer bladder and an inner section 124 that is placed inside the inner bladder, as shown in Fig. 4. Then, by screwing together the outer and inner sections 121 and 124 of the spout 120, the spout 120 catches the inner and outer bladders between the outer and inner sections 121 and 124, as described in paragraph [0027] and shown in Figs. 4, 7, and 9. There is no structure equivalent to or analogous to a sleeve near either opening of the inner or outer bladder. A sleeve at either opening would require additional material and offer no additional benefit. One skilled in the art would avoid wasteful use of extra material around the openings because it would increase manufacturing costs and impede the coupling of

the outer section 121 to the inner section 124. Therefore, *Hall* does not teach, suggest, or render obvious a sleeve near an open end.

Applicant also respectfully submits that the hydration system of *Hall* does not teach an outer separable cover "with a selectively sealable pouch to receive the flexible fluid container" and "a sleeve provided at an open end of the selectively sealable pouch." The outer separable cover and sleeve of the present invention offer significant advantages over the device disclosed in *Hall*. The present invention can be used with any flexible fluid container, that is, any reservoir can be placed inside the pouch. By having an outer separable cover and sleeve, liquid does not come into contact with the pouch of the present invention. Also, in the event that the pouch is not contaminated during use, it can be re-used. Furthermore, if the outer separable cover is contaminated, the inner reservoir still remains intact and can be removed and re-used. There is no disclosure in *Hall* to teach or suggest modifying the device disclosed therein which comprises an inner fluid-containing bladder bonded to an outer protective bladder, to arrive at the present invention. The device disclosed in *Hall* does not suggest a selectively sealable pouch and sleeve which allow the flexible fluid container to be separated from the outer cover.

Therefore, Applicant respectfully submits that *Hall* does not render obvious Claim 1 and because Claim 1 is believed patentable, Applicant respectfully submits that Claim 2 which depends on Claim 1 is also patentable. Thus, Applicant requests reconsideration and withdrawal of the rejection of Claims 1-2 under 35 U.S.C. § 103(a) in view of *Hall*.

C. The Rejection of Claims 3-4 under 35 U.S.C. § 103

The Office Action rejected claims 3-4 under 35 U.S.C. § 103(a) as being unpatentable over *Hall* in view of U.S. Patent No. 5,803,333 to *Fawcett* (hereafter “*Fawcett* '333”). The Office Action states that *Hall* discloses the claimed invention but not the shoulder straps or sealable flap. Thus, the Office Action cites *Fawcett* '333 as teaching a pouch with shoulder straps and sealable flap that can carry a bladder similar to *Hall*. The Office Action concludes it would have been obvious to one skilled in the art to carry the bladder of *Hall* in the device of *Fawcett* '333.

Because Claim 1 is believed patentable over *Hall*, Applicant respectfully submits that Claims 3-4 which depend on Claim 1 are also patentable over *Hall* in view of *Fawcett* '333 for the reasons previously stated. Therefore, Applicant respectfully requests that the rejection be withdrawn.

D. The Rejection of Claim 5 under 35 U.S.C. § 103

The Office Action rejected Claim 5 under 35 U.S.C. § 103(a) as being unpatentable over *Fawcett* '333 in view of U.S. Patent No. 5,085,349 to *Fawcett* (hereafter “*Fawcett* '349”) and *Hall*. The Office Action states that *Fawcett* '333 discloses the claimed invention but not a cover made from a chemically hardened material, a first seal at the pouch, and a tube conduit made from the same chemically hardened material. Thus, the Office Action cites *Fawcett* '349 as

teaching a first sealing means at the top of the pouch and cites *Hall* as teaching a cover and a tube conduit made from a material that is impermeable to chemical toxins and biological agents, such as 3TOX. The Office Action concludes it would have been obvious to one skilled in the art to provide the pouch of *Fawcett* '333 with the sealing means of *Fawcett* '349 and the tube conduit of *Hall* and to have the cover and the conduit made from a material impermeable to chemical toxins and biological agents as taught by *Hall*.

Applicant respectfully submits that none of the cited references, alone or in combination, teaches, suggests, or renders obvious amended Claim 5 because it recites a portable flexible carrier that includes "a cover with a pouch to receive the fluid container, the pouch having an open end with a sleeve...; a first seal disposed at the sleeve of the pouch to selectively seal the pouch..."

Fawcett '333 discloses a pack 10 that has an internal storage compartment 12, as described in col. 2, lines 47-48. A liquid holding reservoir 48 is placed within the storage compartment 12, as shown in Figs. 3 and 4. A top flap 20 is attached to the rear 16 near the open top 18, and the top flap 20 can be extended over the open top 18 to the front 14 to close the open top 18, as described in col. 2, lines 52-55, and shown in Figs. 1 and 7. *Fawcett* '333 does not teach or suggest any structure that can be considered a sleeve near the open top 18 of the pack 10. A sleeve at the open top 18 would prevent the top flap 20 from extending over the open top 18 from the rear 16 to the front 14 of the pack 10. Furthermore, *Fawcett* '333 does not teach or suggest putting a seal at a sleeve because there is no sleeve in the pack 10 of *Fawcett* '333.

Thus, *Fawcett* '333 does not teach, suggest, or render obvious an open end with a sleeve or a seal at the sleeve.

Also, *Hall* does not teach, suggest, or render obvious a cover with a pouch having an open end with a sleeve or a seal at the sleeve to selectively seal the pouch. *Hall* discloses an outer protective bladder (formed from layers 510a and 510b) encasing a bladder (formed from layers 520a and 520b), as described in paragraph [0023] and shown in Fig. 5. The outer protective bladder has an opening, as shown in Fig. 4. The inner bladder has a corresponding opening that coincides with the opening of the outer bladder, as shown in Fig. 4. A spout 120 is placed around the opening of the outer bladder and the corresponding opening of the inner bladder. The spout 120 has an outer section 121 that is placed on the outer bladder and an inner section 124 that is placed within the inner bladder, as shown in Fig. 4. Then, by screwing together the outer and inner sections 121 and 124 of the spout 120, the spout 120 clamps together the inner and outer bladders between the outer and inner sections 121 and 124, as described in paragraph [0027] and shown in Figs. 4, 7, and 9. There is no structure equivalent to or analogous to a sleeve near either of the openings of the inner or outer bladders. As discussed above, one skilled in the art would avoid providing a sleeve at either opening because it would require extra material, additional manufacturing steps, and impede the coupling of the outer and inner sections 121 and 124. Therefore, *Hall* does not teach, suggest, or render obvious a sleeve near an open end or putting a sealing means on a sleeve because there is no sleeve.

Finally, *Fawcett '349* does not teach, suggest, or render obvious a pouch having an open end with a sleeve or a seal at the sleeve. The pack 16 of *Fawcett '349* accepts a water bag 30 within its interior 22, as shown in Fig. 3. The pack 16 is open at the top, and the top includes a fastener means 25, as described in col. 4, lines 52-53, and as shown in Fig. 3. There is no structure at the top of the pack 16 that can be considered a sleeve. As shown in Fig. 3, the fastener means 25 is placed close to the top of the water bag 30 to secure the water bag 30 to the pack 16. A sleeve between the water bag 30 and the fastener means 25 would prevent the fastener means 25 from restraining the water bag 30 to the pack 16. Thus, *Fawcett '349* does not teach, suggest, or render obvious the sleeve or a seal on the sleeve as recited in amended Claim 5.

For the reasons explained above, Applicant respectfully requests reconsideration and withdrawal of the rejection of Claim 5.

IV. CONCLUSION

In the event there are any questions relating to this Amendment or to the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that the prosecution of this application may be expedited.

In view of the foregoing, Applicant believes claims 1-5 are in condition for allowance. Prompt and favorable treatment is respectfully solicited.

U.S. Serial No.: 10/565,729
In Response to the Office Communication of February 20, 2008
Atty. Docket No.: 124316-00102

Please charge any shortage or credit any overpayment of fees to BLANK ROME LLP, Deposit Account No. 23-2185 (124316.00102). In the event that a petition for an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this response, Applicant hereby petitions under 37 CFR 1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized above.

Respectfully submitted,

Charles R. Wolfe, Jr.
by Michael D. White
Reg. No. 32,795

By: _____
Charles R. Wolfe, Jr.
Reg. No. 28,680
Attorney for Applicant

BLANK ROME LLP
600 New Hampshire Ave., N. W.
Washington, D.C. 20037
Telephone: (202) 772-5800
Facsimile: (202) 772-5858

Date: May 20, 2008